

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
AT BLUEFIELD

TINA L. ENGLAND,

Plaintiff,

v.

CIVIL ACTION NO. 1:05-0520

JO ANNE B. BARNHART,
Commissioner of Social Security,

Defendant.

MEMORANDUM OPINION AND ORDER

By Standing Order entered July 21, 2004, and filed in this case on June 28, 2005, this action was referred to United States Magistrate Judge R. Clarke VanDervort for submission of proposed findings and recommendation. Magistrate Judge VanDervort submitted his proposed findings and recommendation on June 28, 2006. In that Proposed Findings and Recommendation, the magistrate judge recommended that this court 1) grant plaintiff's motion for summary judgment, 2) deny defendant's motion for judgment on the pleadings, 3) vacate the final decision of the Commissioner, and 4) remand this matter for further consideration of what, if any, limitations plaintiff experiences as a consequence of her non-severe mental impairment in view of all of the evidence of record.

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted ten days, plus three mailing days, in which

to file any objections to Magistrate Judge VanDervort's Findings and Recommendation. No party has filed objections within the requisite period, and the failure of any party to file such objections constitutes a waiver of such party's right to a *de novo* review by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989); Thomas v. Arn, 474 U.S. 140 (1985).

Having reviewed the Proposed Findings and Recommendation filed by the magistrate judge, the court adopts the findings and recommendations contained therein. Accordingly, the court hereby **GRANTS** plaintiff's motion for summary judgment (Doc. No. 13); **DENIES** defendant's motion for judgment on the pleadings (Doc. No. 15); **VACATES** the final decision of the Commissioner; and **REMANDS** this matter in accordance with Magistrate Judge VanDervort's recommendation in the Proposed Findings and Recommendation (Doc. No. 16). This matter is **DISMISSED** from the court's docket.

The Clerk is directed to forward a certified copy of this written Memorandum Opinion and Order to counsel of record.

IT IS SO ORDERED this 1st day of August, 2006.

ENTER:

A handwritten signature in cursive script, reading "David A. Faber", is written over a horizontal line.

David A. Faber
Chief Judge